

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6621

BILL NUMBER: SB 155

DATE PREPARED: Dec 8, 2001

BILL AMENDED:

SUBJECT: Electronic Gaming Devices.

FISCAL ANALYST: Jim Landers

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill creates a license under the jurisdiction of the Alcohol and Tobacco Commission that permits gambling on electronic gaming devices in establishments that hold permits issued by the Commission. The bill imposes an annual Establishment License fee of \$1,000 per electronic gaming device and limits the number of gaming devices that an establishment may have. The bill also creates a license for suppliers of electronic gaming devices and requires suppliers to pay a \$5,000 annual fee. The bill also requires the fees to be deposited in the Electronic Gaming Fund, to be administered by the Alcohol and Tobacco Commission. The bill provides that after administrative expenses are paid, the money in the Fund at the end of a state fiscal year must be distributed as follows: 20% to the counties; 20% to the cities and towns; and 60% to the Property Tax Replacement Fund. The bill establishes penalties for violations.

Effective Date: July 1, 2002.

Explanation of State Expenditures: Under the bill, the Alcohol and Tobacco Commission is given the power and duty to administer, regulate, and enforce distribution and operation of electronic gaming devices (EGDs), except in the case EGDs operated in riverboat casinos. The bill also requires the Commission to adopt rules relating to the administration of electronic gaming operations. The cost of administration would be defrayed by fee receipts from licenses permitting the operation and distribution of EGDs in Indiana.

The bill creates two licenses. The Establishment License permits an alcoholic beverage retail establishment to operate up to five EGDs. However, if the alcoholic beverage retail establishment is a social or fraternal club or a horse track, the Establishment License permits operation of up to 20 EGDs. The bill also prohibits a holder of an Establishment License from owning the lesser of the number of EGDs authorized by the license or 20 EGDs. The Supplier's License permits a person to own more than 20 EGDs and to distribute, sell, or lease EGDs to a person holding an Establishment License. The bill prohibits the holder of a Supplier's License from owning, managing, or controlling an establishment with an Establishment License. The Commission is required to conduct background investigations of each license applicant. The State

Police Department is required to assist the Commission in conducting background investigations and will be reimbursed for costs incurred.

The bill also establishes the Electronic Gaming Fund and requires receipts from Establishment and Supplier's License fees to be deposited in the Fund. The Fund is to be administered by the Commission. The bill provides that money in the Fund is continually appropriated to the Commission to carry out the provisions of the bill. The bill requires administrative expenses to be paid from the Fund, but prohibits expenses from exceeding 5% of the total amount collected in any fiscal year.

It is estimated that the Commission will require three additional COMOT III staff members to process the additional license applications. Approximately 7,200 retail establishments will be eligible for licenses to operate EGDs. (This total includes Civic Centers and Riverboat Casinos which hold alcoholic beverage permits.) In addition, the Indiana Amusement and Music Operators Association has estimated that there are approximately 180 people in Indiana that may seek a Supplier's License under the bill. Currently, the Commission has five staff members who annually process approximately 12,000 alcoholic beverage permits (new applications and transfers of retailer and dealer permits). The total cost for three COMOT III staff members, including salary, fringe benefits, and indirect costs, is estimated to be \$91,735 in FY 2003 and \$89,792 in FY 2004.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. The November 1, 2001, state manning table indicates that the Commission has only one vacant position. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

This bill will increase the inspection and enforcement duties of excise police officers. If there is an increase in the number of violations cited, there would be an increase in costs associated with court appearances, depositions, and report drafting. The November 1, 2001, state manning table indicates that the Commission has 61 excise police officers. The majority of these officers are POLE II staff members. If additional excise police officers were hired as POLE II officers, the estimated cost per officer of salary, benefits, and equipment would be \$32,015 in FY 2003 and \$31,425 in FY 2004.

The Commission will also need to upgrade its computer system to be able to track both alcoholic beverage permits and EGD licenses.

Penalties: This bill provides that tampering with or manipulating electronic gaming devices (excluding coin-operated games for amusement only) constitutes a Class D felony. Buying, selling, leasing, or distributing an unlicensed electronic gaming device would also be a Class D felony under this proposal. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,131 in FY 2000. Individual facility expenditures ranged from \$16,442 to \$40,312. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *License Fees:* This bill creates an Establishment License that allows qualified establishments to operate EGDs on their premises. Table A illustrates the type and estimated number of qualified establishments, the maximum number of devices allowed at each type of establishment, and the maximum number of devices per type of establishment.

Table A: Maximum Number of Electronic Gaming Devices.			
Qualified Establishments	Number of Establishments	Number of Devices Permitted	Maximum Number of Devices Per Establishment Type
Retail Permit Holders*	6,006	5	30,030
Club Permit Holders**	1,105	20	22,100
Horse Track Permit Holders	1	20	20
TOTAL	7,112		52,150
*Retail permit holders include beer retailers, wine retailers, liquor retailers, restaurants, and hotels. Civic Centers and Riverboat Casinos are excluded from the totals in this table. **Club permit holders include social and fraternal clubs.			

The bill allows the Alcohol and Tobacco Commission to determine the fee for the Establishment License. The maximum fee for this license is \$1,000 per device each year. It is not known how many permit holders would apply for an Establishment License. However, it is important to note that the Lottery Commission estimated in a 1993 study that there were between 10,000 and 15,000 video lottery machines being used illegally in the state. Assuming the license fee is set at \$1,000 and all of the qualified establishments presented in Table A license at least one gaming device, license revenue would equal approximately \$7.1 M annually. If half of the qualified establishments license five gaming devices, license revenue would equal approximately \$17.8 M per year. If all of the qualified establishments license the maximum number of devices authorized in this bill, permit revenue would equal approximately \$52.2 M per year.

This bill also creates the Supplier's License, which is required for a person to own more than 20 EGDs or to distribute, sell, or lease EGDs to holders of Establishment Licenses. The maximum fee for a Supplier's License is \$5,000. If, as estimated above, 180 operators (see **Explanation of State Expenditures**) are licensed, revenue from the license fee would total \$900,000 annually.

Electronic Gaming Fund: The bill establishes the Electronic Gaming Fund which will contain the revenue from the Establishment and Operator License fees. Table B illustrates how money in the Fund would be distributed at the end of the state fiscal year after administrative expenses are paid (these expenses are currently indeterminable). The amount to the Property Tax Replacement Fund is to be used to increase the Property Tax Replacement Credit (PTRC). The 20% PTRC in CY 2001 is equal to approximately \$859.1 M (each 1% of PTRC costs the state \$43.0 M). Additional money used for PTRC would increase the percentage of the credit by an indeterminable level above the current 20%.

Table B: Distribution of Revenue from the Electronic Gaming Fund (after administrative expenses).	
RECIPIENT	AMOUNT
Counties (based on population)	20%
Cities and towns (based on population)	20%
Property Tax Replacement Fund	Amount remaining

Other Revenue: This bill may increase the number of EGDs sold, increasing Sales Tax revenue. Sales Tax revenue is deposited in the state General Fund, the Property Tax Replacement Fund, and three other dedicated funds. In addition, an increase in the sale of EGDs will increase income tax revenue from any manufacturers and distributors located in Indiana. The use of EGDs by licensees could also increase their income, resulting in increased income tax revenue. Revenue from the Corporate Gross Income Tax, the Adjusted Gross Income Tax, and the Supplemental Net Income Tax is deposited in the state General Fund and the Property Tax Replacement Fund.

If allowing operation of EGDs in alcoholic beverage retail establishments increases sales, revenue from the Alcoholic Beverage Excise Tax may increase. Alcoholic Beverage Excise Tax revenue is deposited in the state General Fund, the Post War Construction Fund, the Alcohol and Tobacco Commission's Enforcement and Administration Fund, the Pension Relief Fund, the Addiction Services Fund, and the Wine Grape Market Development Fund.

Penalties: Regarding the Class D felony provision, if additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: Regarding the Class D felony provision, if more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *License Fees:* Table B shows how money in the Electronic Gaming Fund (from Establishment and Operator License fees) would be distributed to counties, cities, and towns. Local government and school revenues would remain unchanged under the PTRC portion of this proposal. Property tax payers could see a reduction in property tax liability under this proposal if the current PTRC is supplemented with money from the Electronic Gaming Fund.

Other Revenue: The bill prohibits local units from charging an additional fee or charging for the licensing of EGD operators or establishments. However, if allowing operation of EGDs in alcoholic beverage retail establishments increases sales, revenue from the Alcoholic Beverage Excise Tax may increase. Fifty percent of Alcoholic Beverage Excise Tax revenue deposited in the state General Fund is allocated to cities and towns.

Penalties: Regarding the Class D felony provision, if additional court actions occur and a guilty verdict is

entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Alcohol and Tobacco Commission, Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs Association, Department of Correction.
Vicki Stephens, Controller, Alcohol and Tobacco Commission, (317) 232-2436.
Don Oaky, Excise Industry Liaison, Alcoholic and Tobacco Commission,
(317) 232-2463.
Lottery Commission Report on Video Lottery, 1993.
Local Government Database.